

Application No.: 10/735,835Docket No.: 2038-316**REMARKS**

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-14 are pending in the application. Claims 1-4 have been amended to better define the claimed invention. Claims 5-14 have been added to provide Applicants with the scope of protection to which they are believed entitled. The new claims find solid support in the original specification and drawings, especially FIGs. 1-5. No new matter has been introduced through the foregoing amendments.

The *35 U.S.C. 112, second paragraph* rejection of claims 2-4 is believed overcome in view of the amendments made to independent claim 1. In particular, amended claim 1 now recites that "the number of said first diapers is substantially equal to the number of said second diapers." The newly added limitation is believed to be sufficiently broad to cover the  $\pm 3$  difference recited in claim 2. With respect to claims 3 and 4, amended claim 1 has been amended to recite "at least one column." The newly added limitation is believed to be sufficiently broad to cover the limitation of "two or more columns" now recited in claims 3 and 4. Withdrawal of the *35 U.S.C. 112, second paragraph* rejection in view of the above is believed appropriate and therefore courteously solicited.

The *35 U.S.C. 103(a)* rejection of claims 1-4 as being obvious over JP 2000-042028 in view of *Bauer* (U.S. Patent No. 5,971,153) is believed overcome in view of the amendments made to independent claim 1. In particular, independent claim 1 has been amended to emphasize a distinction between *Bauer* and the claimed invention which involves the location of the handle on the package.

Amended claim 1 now requires the handle be located at the top wall of the package, and the

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diapers are stacked one upon another in a vertical direction between the top wall and the bottom wall. This amendment finds solid support in the original specification and drawings. In particular, in the embodiment of FIG. 1, the handle (8, FIG. 1) is located on the top (2, FIG. 1) of the package with the diapers being placed one on top another between the top and the bottom (3, FIG. 1) of the package. The other embodiments shown in FIGs. 2, 4 and 5 also support the newly claimed feature.

*Bauer* clearly fails to teach or suggest the newly claimed limitation. As can be seen in FIG. 7 of *Bauer*, if the diapers are considered to be placed one on top another between the "top" and the "bottom" (45, 46, respectively, FIG. 7) of the package, then the handle (41, FIG. 7) is located on a side wall of the package. The "side wall" position is the only place where the handle 41 is disclosed by *Bauer* to be located. See column 5, lines 13-16 of *Bauer*. Thus, the *Bauer* reference fails to include an enabling disclosure of or suggest other alternative positions for the handle.

The deficiency of *Bauer* is not curable by the primary reference of JP 2000-042028 as the JP reference, in this aspect, teaches the same or similar structure. Specifically, the JP reference's handle (22, FIG. 1) is located on a "side" wall (21, FIG. 1), rather than one of the "top" or "bottom" walls (near C and 10 in FIG. 1) between which the diapers are packed.

Accordingly, Applicant respectfully submit that amended claim 1 is not obvious over the applied references.

Claims 2-4 and new claims 5-6 depend from claim 1, and are considered patentable at least for the reason advanced with respect to amended claim 1.

Claim 6 is also patentable on its own merit since the applied references clearly fail to teach or suggest that four of said columns are packed side by side within said package. See FIG. 1 of the instant application. All figures of the JP reference and FIGs. 1, 6-12 of *Bauer* only teach a single column. FIG. 5 of *Bauer* does not constitute an enabling disclosure that more than one column or row of diapers are packed in the package. The references clearly fails to teach or suggest the

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claimed number of columns in the package.

New independent claim 7 is directed to a package of disposable diapers, comprising: a flexible container comprising a top wall, a bottom wall, and first and second opposing side walls that connect the top and bottom walls, said container further comprising a handle at the top wall; and a plurality of disposable diapers packed within said container, each of said diapers including front and rear waist regions, which define together a waist hole, and a crotch region extending between said front and rear waist regions and being opposed to the waist opening; wherein said diapers are stacked one upon another, with said front and rear waist regions of each of the diapers being placed one atop another, to define at least one column of diapers extending in a vertical direction from said top wall to said bottom wall; said diapers comprise first diapers having the waist holes facing the first side wall and second diapers having the waist holes facing the second side wall, wherein said first and second diapers are alternately arranged in said column. New claim 7 finds support in at least FIGs. 1 and 3 of the instant application. New independent claim 7 includes limitations similar to the limitations added to independent claim 1, and is therefore believed patentable over the applied references for the reasons advanced above with respect to amended claim 1.

Claims 8-14 depend from claim 7, and are considered patentable at least for the reasons advanced with respect to claim 7.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

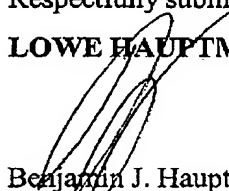
The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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